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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/532,913 | 04/27/2005 | Theo Anjes Maria Ruijl | NL 021066 | 4944 |

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

COURSON, TANIA C

ART UNIT

PAPER NUMBER

2859

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS | 04/11/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/532,913

Applicant(s)

RUIJL ET AL.

Examiner

Tania C. Courson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-15 is/are pending in the application.
- 4a) Of the above claim(s) 6,9-12 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7,8,13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. The election requirement stated in the last office action (mailed on December 15, 2006) is hereby repeated, and thus made **FINAL**.
2. Claims 6, 9-12 and 15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply mailed on January 12, 2007, with the inclusion of claim 9. Claim 9 is considered to be withdrawn, since it pertains to having a “leaf spring” which found in the non-elected species found in Group IV (Fig. 6).
3. Thus, claims 1, 3-5, 7-8 and 13-14 will be further examined in this action.

Claim Objections

4. Claims 9 is objected to because of the following informalities: it contains an improper status identifier, it should read “(withdrawn)” instead of reading “(previously presented)”, also see paragraph 2, as stated above. Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 4-5, 7-8 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holloway et al. (US 6,633,051 B1) in view of Rhoades et al (US 5,517,124).

Holloway et al. disclose in Figures 1-3, a sensing device and associated method comprising:

With respect to Claims 1 and 4-5:

- a) a sensing member (36) for contacting the object, a support unit (16), a supporting element (30) connecting said sensing member (36) to said support unit (16), a detection member (42), detection means (38) for detecting the position of said detection member (42), characterized in that said detection member (42) is carried by a connection element (32), and in that said connection element (32) is attached to said sensing member (36); wherein said supporting element (30) and said connection element (32) are positioned substantially adjacent to and parallel with each other (Fig. 2);
- b) said supporting element (30) substantially envelops said connection element (32);
- c) wherein said supporting element (30) is a hollow tube completely surrounding said connection element (Fig. 2).

With respect to the method steps of Claims 7-8:

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- a) the object being measured is contacted by a sensing member (36) of a probe (Fig. 2), the probe comprising the sensing member (36), a supporting element (30) carrying the sensing member (36) and being attached to a support unit (16), in which the location of the sensing member (36) is measured by detecting the position of a detection member (42) which is connected to the sensing member (36) through a connection element (32), wherein said supporting element (30) and said connection element (32) are positioned substantially adjacent to and parallel with each other (Fig. 2);
- b) further comprising a spring (70) connecting between said supporting element and said support unit (Fig. 3).

With respect to Claims 13-14:

- a) a support unit (16), a sensing member (36), a spring (70) connected to said support unit (Fig. 3), a detection member (42), detection means (38) for detecting position of said detection member (42), a supporting element (30) having a first support end and a second support end, said first support end being connected to said spring (Fig. 3) and said second support end being connected to said sensing member (Fig. 3), a connection element (32) having a first connect end and a second connect end (Fig. 2), said first connect end being connected to said detection member (Fig. 2) and said second connect end being connected to said sensing member (Fig. 2), wherein said supporting

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element (30) and said connection element (32) are positioned substantially adjacent to and parallel with each other (Fig. 2);

- b) wherein said supporting element (30) is a tube having a hollow center (Fig. 2) said connection element being disposed in said hollow center (Fig. 2).

Holloway et al. does not disclose wherein a supporting element and a connection element are positioned without touching each other.

Rhoades et al. teaches a measuring device that consists of wherein a supporting element and a connection element are positioned without touching each other (22). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the sensing device of Holloway et al., so as to include wherein a supporting element and a connection element are positioned without touching each other, as taught by Rhoades et al., so as to reduce the damping vibration.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holloway et al. and Rhoades et al.

Holloway et al. and Rhoades et al. do not disclose the length of a connection element is larger than the length of a supporting element.

With respect to claim 3: the shape of the connection element, i.e., larger than the length of the supporting element, absent any criticality, are only considered to be obvious modifications of the shape of the connection element (32) disclosed by Holloway et al and Rhoades et al.. as

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the courts have held that a change in shape or configuration, without any criticality, is within the level of skill in the art as the particular shape claimed by Applicant is nothing more than one of numerous shapes that a person having ordinary skill in the art will find obvious to provide using routine experimentation based on its suitability for the intended use of the invention. See *In re Dailey*, 149 USPQ 47 (CCPA 1976). Therefore, one skilled in the art would change the shape of the connection element in order to suit the needs of the user of the device.

Response to Arguments

8. Applicant's arguments filed on January 12, 2007 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania C. Courson whose telephone number is (571) 272-2239. The examiner can normally be reached on Monday, Wednesday and Thursday from 9AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez, can be reached on (571) 272-2245.

The fax number for this Organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TCC
April 5, 2007


G. BRADLEY BENNETT
PRIMARY EXAMINER
AV 2859